

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 MARY-IRENE HINES

12 Plaintiff,

13 v.

14 MICHAEL J. ASTRUE, Commissioner of
Social Security,

15 Defendant.

Case No. C03-5635 FDB

ORDER AWARDING 42 U.S.C. §
406(b) ATTORNEY FEES

16
17 This matter comes before the Court on Plaintiff's motion for authorization of attorney
18 fees under 42 U.S.C. § 406(b). Counsel for Plaintiff seeks a gross attorney fee award of \$9,608.60.
19 The Commissioner has filed a response to Plaintiff's motion indicating Defendant has no objection to
20 the fee request.

21 Attorney's fees may be awarded to a successful social security claimant's lawyer for his or her
22 representation before a court pursuant 42 U.S.C. §§ 406(b); Straw v. Bowen, 866 F.2d 1167 (9th
23 Cir. 1989). Plaintiff must apply to the Social Security Administration for an award of fees for
24 representation at the administrative level. 42 U.S.C. § 406(a); Stenswick v. Bowen, 815 F.2d 519
25 (9th Cir. 1987). Previously, this Court awarded Plaintiff's counsel \$6,808.47 pursuant to the Equal

1 Access to Justice Act (EAJA).

2 Under 42 U.S.C. § 406(b)(1)(A) the court can only award fees up to the 25 percent withheld
3 from the past-due benefits. This 25 percent limit applies to the total of EAJA and 406(b) fees
4 combined. See, Morris v. Social Sec. Admin., 689 F.2d 495, 497-98 (4th Cir. 1982); Webb v.
5 Richardson, 472 F.2d 529, 536 (6th Cir. 1972); Dawson v. Finch, 425 F.2d 1192, 1195 (5th Cir.
6 1970).

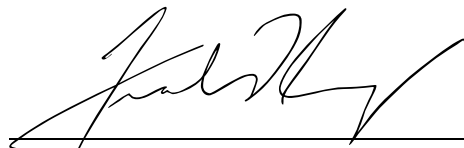
7 Plaintiff was awarded \$38,434.40.00 in past due benefits. The requested gross fee of
8 \$9,608.60 represents 25% of past due benefits. The Court concludes that the attorney's fees sought
9 counsel are reasonable within the meaning of § 406(b). Plaintiff's counsel is entitled to a gross
10 attorney fee of \$9,608.60. Subtracting the \$6,808.47 previously awarded EAJA fees, counsel is
11 entitled to a net § 406(b) award of \$2,800.13 .

12 ACCORDINGLY,

13 IT IS ORDERED:

14 Plaintiff's Motion for an Award of Attorney's Fees [Dkt #31] is **GRANTED**. Plaintiff's
15 counsel is awarded gross attorney fees in the sum of \$9,608.60. The Commissioner is directed to
16 subtract the \$6,808.47 previously awarded EAJA fees and send to Plaintiff's counsel an award of
17 \$2,800.13., minus any applicable processing fees as allowed by statute.

18
19 DATED this 7th day of November, 2008.

20
21 
22 FRANKLIN D. BURGESS
23 UNITED STATES DISTRICT JUDGE
24
25
26